

CIVIL COVER SHEET

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express, Ltd.

DEFENDANTS

Borough of Ephrata and PNC Bank, NA

(b) County of Residence of First Listed Plaintiff Lancaster
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Lancaster
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

(d)

Sara A. Austin, Esquire
Austin Law Firm, LLC
226 East Market Street
York, PA 17403 (717.846.2246)

Attorneys (If Known)

John P. Gonzales, Esquire (610) 354-8264
Marshall, Dennehey, Warner, Coleman & Goggin
620 Freedom Business Center, Suite 300, King of Prussia, PA 19406
Donna M. Donaher, Esquire (412.594.5533)
Tucker Arensberg, 1500 One PPG Place, Pittsburg, PA 15222
(Attorney for PNC, NA)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus—Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. § 1983

Brief description of cause:

Violation of Fourteenth Amendment Due Process and Equal Protection

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes ☐ No ☒

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE N/A

DOCKET NUMBER _____

DATE 12/16/10 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

I. CASE MANAGEMENT TRACK DESIGNATION FORM

Nicholas J. Reinhart,	:	CIVIL ACTION
Nicholas J. Reinhart, III and Sunset Express,	:	
v.	:	
Borough of Ephrata and PNC Bank, NA	:	
	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus-Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security-Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration-Cases require to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos-Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management-Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management--Cases that do not fall into any one of the other tracks. (X)

<u>12/16/10</u> Date	<u>John P. Gonzales</u> Attorney-at-law	<u>Defendant</u> Attorney for
<u>(610) 354-8264</u> Telephone	<u>(610) 354-8299</u> FAX Number	<u>jpgonzales@mdwecg.com</u> E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA--DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 450 Hertzog Valley Road, Denver, PA 17517

Address of Defendant: 124 South State Street, Ephrata, PA 17522

Place of Accident, incident or Transaction Ephrata, PA

(Use Reverse Side For Additional Space)

Does this case involve multidistrict litigation possibilities?

Yes ☐

No ☒

RELATED CASE IF ANY

Case Number :

Judge

Date Terminated:

Civil cases are deemed related when yes is answered to any of the following questions:

- | | | | |
|----|---|------------------------------|--|
| 1. | Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. | Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. | Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

CIVIL: (Place 4in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act--Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
(Please specify)
10. ☐ Social Security Review Cases
11. ☐ All other Federal Questions Cases
(please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability--Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate category)

I, John P. Gonzales, Esquire of record do hereby certify:

- ☒ Pursuant to Local Civil Rule 8, Section 4(a)(2), that to the best of my knowledge and belief, the alleged damages recoverable in this civil action case exceed the sum of \$150,000 exclusive of interest and cost;
- ☐ Relief other than monetary damages is sought.

DATE:

12/16/10

John P. Gonzales, Esquire

71265

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P.38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE:

12/16/10

John P. Gonzales, Esquire
Attorney-at-Law

71265

Attorney I.D. #

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express, Ltd.	:	Civil Action No.
	:	
	:	
v.	:	Jury Trial Demanded
	:	
PNC Bank, NA,	:	
Ephrata Police Officer John Doe #1,	:	
Ephrata Police Officer John Doe #2,	:	
Ephrata Police Officer John Doe #3 and	:	
Borough of Ephrata	:	

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express, Ltd.	:	Civil Action No. 10-13522
	:	
	:	
v.	:	Jury Trial Demanded
	:	
PNC Bank, NA,	:	
Ephrata Police Officer John Doe #1,	:	
Ephrata Police Officer John Doe #2,	:	
Ephrata Police Officer John Doe #3 and	:	
Borough of Ephrata	:	

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA:

Defendant, the Borough of Ephrata, by and through their undersigned counsel, Marshall, Dennehey, Warner, Coleman & Goggin and John P. Gonzales, Esquire, gives notice that the above-captioned matter is being removed from the Court of Common Pleas of Lancaster County, PA to the United States District Court for the Eastern District of Pennsylvania for the following reasons:

1. On November 10, 2010, the Plaintiffs, Nicholas J. Reinhart, Nicholas J. Reinhart, III and Sunset Express, Ltd., filed a Complaint in the Court of Common Pleas of Lancaster County at Docket No. 10-13522. (A copy of the Complaint is filed as Exhibit "A").

2. On November 24, 2010, the Plaintiffs' Complaint in the Lancaster County Court of Common Pleas was served on the Defendant, the Borough of Ephrata.

3. Plaintiffs' Complaint sets forth federal questions within the original jurisdiction of this Court including those that allege the Plaintiffs' federal statutory rights were violated. These include the following counts:

Count VIII – Civil Rights Violation – 42 U.S.C. § 1983 against the Borough of Ephrata.

4. This Court has original jurisdiction over these claims pursuant to 28 U.S.C. § 1331 and § 1343, and therefore, this action is one which may be removed to this Court by Notice pursuant to 28 U.S.C. § 1441 and § 1446.

5. This Notice of Removal is being filed within thirty (30) days after the receipt of the underlying Complaint against the Defendant.

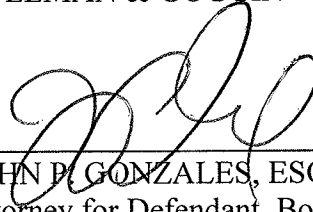
6. Venue in this District is appropriate because the underlying cause of action was filed in Lancaster County which is part of this Eastern District of Pennsylvania.

7. Notice of Removal has been served this day upon counsel for Plaintiffs and forwarded to the Prothonotary of the Court of Common Pleas of Lancaster County, Pennsylvania.

8. This Notice of Removal is signed pursuant to Fed.R.Civ.P. 11.

WHEREFORE, Defendant, Borough of Ephrata, respectfully requests this Court permit the removal of this action from the Court of Common Pleas of Lancaster County, PA to the United States District Court for the Eastern District of Pennsylvania.

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN


A handwritten signature in black ink, appearing to read 'J. P. Gonzales', written over a horizontal line.

JOHN P. GONZALES, ESQUIRE
Attorney for Defendant, Borough of Ephrata

DATE: 12/16/10

VERIFICATION

JOHN P. GONZALES, ESQUIRE, hereby states that he is attorney for Defendant, Borough of Ephrata, herein and verifies that the statements made in the foregoing Notice of Removal are true and correct to the best of his knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. section 4904 relating to unsworn falsification to authorities.



JOHN P. GONZALES, ESQUIRE

DATED: 12/16/10

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express, Ltd.	:	Civil Action No.
	:	
	:	
v.	:	Jury Trial Demanded
	:	
PNC Bank, NA,	:	
Ephrata Police Officer John Doe #1,	:	
Ephrata Police Officer John Doe #2,	:	
Ephrata Police Officer John Doe #3 and	:	
Borough of Ephrata	:	

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express, Ltd.	:	Civil Action No. 10-13522
	:	
	:	
v.	:	Jury Trial Demanded
	:	
PNC Bank, NA,	:	
Ephrata Police Officer John Doe #1,	:	
Ephrata Police Officer John Doe #2,	:	
Ephrata Police Officer John Doe #3 and	:	
Borough of Ephrata	:	

CERTIFICATE OF SERVICE

I, JOHN P. GONZALES, ESQUIRE, being duly sworn according to law, hereby certify that Notice of Removal was forwarded to all counsel of record on the below listed date and was sent via first class mail, postage prepaid to the last known address of other parties or their representatives.

Sara A. Austin, Esquire
Austin Law Firm, LLC
226 East Market Street
York, PA 17403

Donna M. Donaher, Esquire
Tucker Arensberg
1500 One PPG Place
Pittsburg, PA 15222

MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN

A handwritten signature in black ink, appearing to read 'JPG', is written over a horizontal line.

JOHN P. GONZALES, ESQUIRE
Attorney for Defendant, Borough of Ephrata

DATE: 12/16/10

EXHIBIT "A"

Supreme Court of Pennsylvania

Court of Common Pleas
Civil Cover Sheet

Lancaster

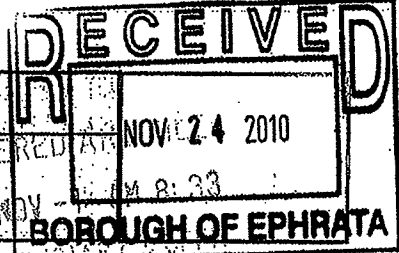
County



For Prothonotary Use Only:

Docket No.

10-13522



The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons
☐ Transfer from Another Jurisdiction

- ☐ Petition
☐ Declaration of Taking

- ☐ Notice of Appeal

Lead Plaintiff's Name:

Nicholas J. Reinhart

Lead Defendant's Name:

PNC Bank, NA

- ☐ Check here if you are a Self-Represented (Pro Se) Litigant

Name of Plaintiff/Appellant's Attorney: Sara A. Austin, Esq., Austin Law Firm, LLC

Are money damages requested? ☒ Yes ☐ NoDollar Amount Requested: _____ within arbitration limits
(Check one) ☒ outside arbitration limitsIs this a *Class Action Suit*? ☐ Yes ☒ No

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other: _____

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other: _____

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional: _____

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other: _____

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure
☐ Partition
☐ Quiet Title
☐ Other: _____

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Zoning Board
☐ Statutory Appeal: Other

Judicial Appeals
☐ MDJ - Landlord/Tenant
☐ MDJ - Money Judgment
☐ Other: _____

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☒ Replevin
☐ Other: _____

LANCASTER COUNTY
PROTHONOTARY
CIVIL COVER SHEET

PLEASE STAPLE THIS COVER SHEET BEHIND THE STATE-WIDE CIVIL COVER SHEET
(IF APPLICABLE)

ZIP CODES ARE REQUIRED & INFORMATION MUST MATCH PLEADING

CASE ID: 10 - 13522

PLAINTIFF'S NAME
Nicholas J. Reinhart

VS

DEFENDANT'S NAME
PNC Bank

ADDRESS:
450 Hertzog Valley Road
Denver, PA 17517

ADDRESS:
280 North Reading Road
Ephrata, PA 17522

TELEPHONE #:
610-909-4500

(717) 733-7937

PLEASE LIST NAMES, ADDRESSES OF ADDITIONAL PARTIES ON A SEPARATE SHEET.

**** Additional Parties Listed**

Name of Firm and Filing Attorney OR Filing Party, Address, Telephone Number, AOPC Number

Firm:

Filing Attorney/ Party:
Sara A. Austin, Esquire
Austin Law Firm, LLC

AOPC #
59052

Address:
226 East Market Street

City:
York

State:
PA

Zip Code:
17403

Telephone Number:
717-846-2246

Plaintiff

Nicholas J. Reinhart, III
17 Cowpath Lane
Denver, PA 17517

717-471-0072

Sunset Express, Ltd.
3511 Silverside Rd., Ste. 105
Wilmington, DE 19810

Defendant

Ephrata Police Officer John Doe, #1
c/o Borough of Ephrata
124 South State Street
Ephrata, PA 17522

717-738-9222

Ephrata Police Officer John Doe, #2
c/o Borough of Ephrata
124 South State Street
Ephrata, PA 17522

717-738-9222

Ephrata Police Officer John Doe, #3
c/o Borough of Ephrata
124 South State Street
Ephrata, PA 17522

717-738-9222

Borough of Ephrata
124 South State Street
Ephrata, PA 17522

717-738-9222

Sara A. Austin, Esquire
ID # 59052
Austin Law Firm, LLC
226 East Market Street
York, PA 17403
717-846-2246

ENTERED AND FILED
10 NOV -1 AM 8:33
PROthonotary's Office
LANCASTER, PA

NICHOLAS J. REINHART,
NICHOLAS J. REINHART, III, and
SUNSET EXPRESS LTD.,
Plaintiffs

vs.

PNC BANK NA, EPHRATA POLICE
OFFICER JOHN DOE #1, EPHRATA
POLICE OFFICER JOHN DOE #2, :
EPHRATA POLICE OFFICER JOHN
DOE #3, and BOROUGH OF EPHRATA
Defendants

: IN THE COURT OF COMMON PLEAS
: of LANCASTER COUNTY, PENNA.
:

: NO.: 10 - 13522
:

: CIVIL ACTION - LAW & EQUITY
:

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

(balance of page intentionally left blank)

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO
PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER
LEGAL SERVICES TO ELIGIBLE PERSON AT A REDUCED FEE OR NO FEE.**

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602
Telephone: 717-393-0737

Sara A. Austin, Esquire
ID # 59052
Austin Law Firm, LLC
226 East Market Street
York, PA 17403
717-846-2246

ENTERED AND FILED
10 NOV -1 AM 8:34
PROthonary's Office
LANCASTER, PA

NICHOLAS J. REINHART,
NICHOLAS J. REINHART, III, and
SUNSET EXPRESS LTD.,
Plaintiffs

vs.

PNC BANK NA, EPHRATA POLICE
OFFICER JOHN DOE #1, EPHRATA
POLICE OFFICER JOHN DOE #2,
EPHRATA POLICE OFFICER JOHN
DOE #3, and BOROUGH OF EPHRATA
Defendants

: IN THE COURT OF COMMON PLEAS
: of LANCASTER COUNTY, PENNA.
:

: NO.: 10 - 13522
:

: CIVIL ACTION - LAW & EQUITY
:

COMPLAINT

AND NOW, TO WIT, this 21 day of October, 2010, come the Plaintiffs, Nicholas J. Reinhart, Nicholas J. Reinhart, III, and Sunset Express Ltd., by and through their attorney, Sara A. Austin, Esq., AUSTIN LAW FIRM, LLC, and do aver the following:

PARTIES

1. Plaintiff Nicholas J. Reinhart is an adult individual with a business address at 515 Reading Road, Ephrata, PA (hereinafter Plaintiff Father).
2. Plaintiff Nicholas J. Reinhart, III, is an adult individual with a business address at 515 Reading Road, Ephrata, PA (hereinafter Plaintiff Son).
3. Plaintiff Sunset Express Ltd., is a Delaware corporation with an address of 3511 Silverside Rd., Ste. 105, Wilmington, DE 19810 (hereinafter Plaintiff Corporation).

4. Defendant PNC Bank, NA is a national banking association having a local place of regular business at 280 North Reading Road, Ephrata, Lancaster County, Pennsylvania (hereinafter "PNC").

5. Defendant Ephrata Police Officer John Doe #1 is a police officer for the Borough of Ephrata, which has its police department headquartered at 124 South State Street, Ephrata, Lancaster County, Pennsylvania.

6. Defendant Ephrata Police Officer John Doe #2 is a police officer for the Borough of Ephrata, which has its police department headquartered at 124 South State Street, Ephrata, Lancaster County, Pennsylvania.

7. Defendant Ephrata Police Officer John Doe #3 is a police officer for the Borough of Ephrata, which has its police department headquartered at 124 South State Street, Ephrata, Lancaster County, Pennsylvania.

8. Defendant Borough of Ephrata is a Pennsylvania municipality having as its primary business address 124 South State Street, Ephrata, Lancaster County, Pennsylvania (hereinafter "Boro").

JURISDICTION

9. Pennsylvania has jurisdiction and proper venue for this case sits in Lancaster County, because most of the parties reside in and all of the events giving rise to this cause of action occurred in Lancaster County, Pennsylvania.

FACTS

10. Plaintiff Father is the sole member of Plaintiff Corporation, which owns a boat, identified as a 2002 BLACK THUNDER 43 EXPRESS, S/N DON43VG8F102, with two 2002 MERCUISER 500HP GAS motors S/N OM050154 and OM050136 (hereinafter the "Boat").

11. In this action, Plaintiff Father is acting on behalf of himself and Plaintiff Corporation; references to the former shall be deemed to also include the latter.

12. On October 15, 2010, PNC, through a repossession agent, appeared at Plaintiffs' business for the purpose of taking possession of the Boat.

13. PNC has no legal possessory or re-possessory interest in the Boat, contract or otherwise.

14. At the time PNC's repossession agent appeared at Plaintiffs' place of business, Plaintiff Son asked the agent to leave the premises; this occurred four (4) times, but the agent did not leave.

15. Plaintiff Son also prohibited the agent's access to the Boat, which was behind closed doors, by physically standing in front of the first door.

16. PNC's agent did not leave, but because Plaintiff Son was physically blocking access, PNC's agent telephoned the Ephrata Police Department for assistance.

17. Three officers from the Ephrata Police Department appeared at the scene – Officers John Doe #1, #2, and #3 (hereinafter jointly referred to as the "Defendant Officers").

18. All three Defendant Officers were in full police uniform.

19. All three Defendant Officers were armed.

20. All three Defendant Officers arrived in marked police vehicles.

21. At least one police vehicle had activated emergency lights.

22. The Defendant Officers ordered Plaintiff Son to move away from the access point; Plaintiff Son explained the situation, after which an Officer ordered Plaintiff Son to move out of the way.

23. At that point, Plaintiff Son felt compelled to comply.

24. Plaintiff Son, in response to the orders of the Defendant Officers, removed himself from the access point to the business premises and Boat.

25. One of the Defendant Officers, a female, then pushed the first door out of Plaintiff Son's hands and began touching and punching the keypad(s) that activate the entrance doors to Plaintiffs' business until she found a button that opened a back door, thus assisting PNC's agent in breaking and entering for the purposes of repossession.

26. During this time period, one of the Defendant Officers said to Plaintiff Son, "I hope I don't get in trouble".

27. Pennsylvania law prohibits breaking and entering for the purposes of repossession absent a court order.

28. PNC had no Order permitting it to break and enter Plaintiffs' premises for the purpose of repossession.

29. The Boat was situated on a trailer in which PNC has neither a possessory nor a repossessory interest.

30. After the Defendant Officers opened the doors, PNC's agent repossessed the Boat and the trailer, during which repossession the Boat was damaged.

31. The Boat is rare and one of a kind in both build and appearance, as it has many custom features and a custom paint job, many of which customizations were undertaken after Plaintiffs.

Count I – REPLEVIN v. PNC

32. Paragraphs 1 through 29 are incorporated herein as if restated at length.

33. The boat is valued in the \$200,000-\$250,000.00 range.

34. According to notification from PNC, the Boat is currently located at National Liquidators, 5401 N Marginal Rd., Cleveland, OH 44114.

35. PNC has no legal possessory interest in the boat.

WHEREFORE, Plaintiffs pray this Honorable Court to issue a Writ of Seizure/Replevin and order the Lancaster County Sheriff to seize the boat from PNC or its agent or any non-party entity/person who may currently be in possession of the Boat, to turn over the Boat to Plaintiffs after the appropriate statutory time period, and for such other relief as may be just and proper.

Count II – Preliminary Injunction v. PNC

36. Paragraphs 1 through 35 are incorporated herein as if restated at length.

37. In the alternative, should Plaintiffs not prevail in Replevin, Plaintiffs Father and Corporation will not have an adequate remedy at law to stop the waste of and further damage to the Boat or to stop PNC from disposing of the Boat by sale or otherwise.

38. Should PNC dispose of the Boat, Plaintiffs Father and Corporation will be irreparably harmed due to the Boat's uniqueness – there are no other boats just like this Boat.

39. Plaintiffs Father and Corporation are highly likely to prevail in the instant action.

WHEREFORE, Plaintiffs pray this Honorable Court to enter a Preliminary Injunction maintaining the status quo and prohibiting PNC from damaging, selling or otherwise disposing of the Boat, requiring PNC to take all proper care of the Boat pending resolution of the instant action, and for such other relief as may be just and proper.

Count III – Conversion v. PNC

40. Paragraphs 1 through 39 are incorporated herein as though fully set forth.

41. Plaintiffs Father and Corporation own or have the only right to possession of both the Boat and the trailer.

42. PNC has no lawful possessory interest in either the Boat or the trailer.

43. Possession of the Boat and trailer by PNC (through its agent) is wrongful.

44. The act of taking possession of the Boat and trailer by PNC, through its agent, was wrongful.

45. Plaintiffs Father and Corporation have not been able to use and enjoy the Boat and trailer since PNC took possession thereof, such that they are entitled to damages for such loss.

46. Plaintiffs Father and Corporation are entitled to damages equal to the fair market value of the Boat and trailer if PNC fails to return same.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of the Plaintiffs and against Defendant PNC in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Count IV– Trespass v. PNC

47. Paragraphs 1 through 46 are incorporated herein as though fully set forth.

48. PNC's agent came onto Plaintiffs' property and refused to remove himself upon Plaintiffs' multiple requests.

49. Once Plaintiffs requested PNC's agent to remove himself, said agent no longer had a lawful reason to be on Plaintiffs' property.

50. PNC's agent trespassed on Plaintiffs' property.

51. PNC is liable for the conduct of its agents.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of the Plaintiffs and against Defendant PNC in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Count V – Breach of Peace v. PNC

52. Paragraphs 1 through 51 are incorporated herein as though fully set forth.

53. PNC's agent caused a breach of peace at, on, and around the property of the Plaintiffs and at, near and around the persons of the Plaintiffs.

54. PNC is liable for the conduct of its agents.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of the Plaintiffs and against Defendant PNC in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Count VI – Civil Rights Violation- 42 U.S.C. §1983 v. Defendant Officers

55. Paragraphs 1 through 54 are incorporated herein as though fully set forth.

56. The Defendant Officers violated the civil rights of Plaintiff Son by ordering him to remove himself from an area where he had a lawful and legal right to be (his own business).

57. Plaintiff Son reasonably did not feel free to stay and, on the contrary, felt compelled to move.

58. The Defendant Officers had no lawful or legal authority – i.e. no pending emergency, court order, probable cause, or reasonable suspicion – upon which they relied in ordering Plaintiff Son to remove himself from his own property.

59. The removal of Plaintiff Son by order of the Defendant Officers amounts to an illegal seizure of his person in violation of the United States Constitution.

60. The Defendant Officers violated the civil rights of Plaintiff Son in that they were acting under color of law while violating Plaintiff Son's constitutional rights.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of Plaintiff Son and against the Defendant Officers in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Count VII – Civil Rights Violation- 42 U.S.C. §1983 v. Defendant Officers

61. Paragraphs 1 through 60 are incorporated herein as though fully set forth.

62. Plaintiffs Father and Corporation had the right to prohibit access to the Boat to PNC.

63. Plaintiffs Father and Corporation had the right to legal due process of complaint and answer in order for PNC to prove a legal possessory interest in the Boat.

64. The Defendant Officers, acting under color of law, violated Plaintiffs Father's and Corporation's constitutional right to due process and equal protection by aiding PNC (through its agent) in taking possession (a civil matter) by way of breaking and entering and breaching the peace.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of Plaintiffs Father and Corporation and against the Defendant Officers in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Count VIII – Civil Rights Violation- 42 U.S.C. §1983 v. Boro

65. Paragraphs 1 through 64 are incorporated herein as though fully set forth.

66. Plaintiffs had the right to prohibit access to the Boat to PNC.

67. Plaintiffs Father and Corporation had the right to legal due process of complaint and answer in order for PNC to prove a legal possessory interest in the Boat.

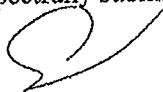
68. The Defendant Officers, acting under color of law, violated Plaintiffs Father's and Corporation's constitutional right to due process and equal protection by aiding PNC (through its agent) in taking possession (a civil matter) by way of breaking and entering and breaching the peace.

69. The Boro did not properly train its police officers in the use of appropriate force.

70. The Boro did not properly train its police officers in when they can or cannot aid in civil repossessions.

WHEREFORE, Plaintiffs respectfully pray this Honorable Court to enter judgment in favor of Plaintiffs and against the Boro in an amount above the mandatory arbitration limit, same to be established at trial, and for such other relief as may be just and proper.

Respectfully submitted,




Sara A. Austin, Esq.
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Austin Law Firm LLC
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York, PA 17403
Telephone (717) 846-2246
Attorney for Plaintiffs

VERIFICATION

The undersigned hereby verify that the information set forth in the foregoing document is true and correct to the best of their knowledge, information and belief. They understand that any false statements contained herein are subject to the penalties relating to unsworn falsification to authorities.

DATE: 10/29/10


NICHOLAS J. REINHART individually and
on behalf of Sunset Express Ltd.

DATE: 10/29/10


NICHOLAS J. REINHART III